

REMARKS

This is a full and timely response to the outstanding final Office Action mailed January 26, 2007. Through this response, claim 1 has been amended. Reconsideration and allowance of the application and pending claims 1, 2, and 5-7 are respectfully requested.

I. Specification Objection

The specification has been objected to allegedly for failure to provide proper antecedent basis for the claimed subject matter. Specifically, the Office Action identifies that the terminology "stop portion being spaced from the cutting portion along the shaft" is not found in the specification.

In response to the objection, Applicant respectfully submit that the specification (paragraph 0010, emphasis added) recites: "The stop portion 18 comprises a substantially smooth surface. It is preferred that the stop portion 18 ***is a separate member from the cutting portion 16.***"

Thus, since the specification discloses the feature of the stop portion being a separate member of the cutting portion, there is a space between the stop portion and the cutting portion along the shaft.

II. Claim Rejections - 35 U.S.C. § 102(b)

A. Statement of the Rejection

Claims 1, 2, and 5-7 have been rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by *Ferrante et al.* ("Ferrante," U.S. Pat. No. 5,176,684). Applicant respectfully traverses this rejection. Applicant has amended claim 1, thus rendering the

rejection to this claim moot. Further, Applicant respectfully submits that claims 1, 2, and 5-7 are allowable over *Ferrante*.

B. Discussion of the Rejection

It is axiomatic that “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

Independent Claim 1

Claim 1 recites (emphasis added):

1. A medical bur for cutting bone, said medical bur comprising:
 - a handle configured to be gripped by a user;
 - a shaft extending from said handle having a terminal end;and
 - a bur head attached to a distal end of said shaft, said bur head having a cutting portion and a stop portion such that a position of said stop portion along said shaft is fixed with respect to said cutting portion;
 - said cutting portion being located between said handle and said stop portion, said cutting portion having a longitudinal axis and exhibiting symmetry thereabout, said longitudinal axis being aligned with a longitudinal axis of said shaft;
 - said stop portion being located at said terminal end of said shaft;**
 - spaced from said cutting portion along said shaft to permit independent movement of said cutting portion about said longitudinal axis of said shaft with respect to said stop portion, said stop portion having a longitudinal axis and exhibiting symmetry thereabout;
 - wherein said cutting portion of said bur head is adapted to rotate under power and said stop portion of said bur head is adapted to move independently with respect to said cutting portion such that said cutting portion is rotatable to cut through bone while said stop portion tends to prevent contact of said cutting portion with soft tissue located adjacent the bone being cut.

Applicant respectfully submits that the rejection to claim 1 has been rendered moot. Additionally, Applicant respectfully submits that the art of record fails to disclose, teach, or suggest at least the above-emphasized claim features.

Applicant respectfully submits that *Ferrante* fails to disclose, teach, or suggest the claimed feature of "said stop portion being located at said terminal end of said shaft." Rather, it appears that *Ferrante* discloses a shaft extending from the distal end of the cutting element. This is not the same as the claimed feature of the "stop portion being located at said terminal end of said shaft"

Because independent claim 1 is allowable over *Ferrante*, dependent claims 2 and 5-7 are allowable as a matter of law for at least the reason that the dependent claims 2 and 5-7 contain all elements of their respective base claim. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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